

ARTICLE APPEARED
ON PAGE A-12WASHINGTON POST
5 December 1984

Declassified Memo Aids Westmoreland Contention

Document Indicates Superior Was Briefed

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NEW YORK, Dec. 4—A key memo supporting retired general William C. Westmoreland's \$120 million libel suit against CBS surfaced today, helping to document his contention that he briefed his immediate superior in 1967 about higher enemy-troop estimates in Vietnam.

The formerly top secret memo, which the Army declassified six days ago for this trial, states that Westmoreland was present at a May 19, 1967, meeting when his intelligence officers from the Military Assistance Command, Vietnam (MACV) told him the details of a report showing an increase in estimates of enemy troops.

Westmoreland's lawyers are arguing that his case hinges on

whether he informed his superiors of the higher troop data in 1967.

Westmoreland has said the superior he had a duty to report to, the then-commander in chief of Pacific forces, Adm. U.S. Grant Sharp, was present at the May 19 briefing when the new intelligence data were discussed.

Westmoreland's attorneys have argued that documents presented earlier in the trial, including the general's personal notes and appointment calendar, support his contention that Sharp was present at the meeting.

The new exhibit does not state that Sharp was there but indicates that participants discussed new data counting what Westmoreland contends were "civilians" or "nonfighters" in the troop estimates.

The 1982 CBS documentary at issue in this case charged that Westmoreland was part of a "conspiracy" at the top levels of the mil-

itary in 1967 to suppress higher enemy-troop figures in order to maintain support for the war. The broadcast, "The Uncounted Enemy: A Vietnam Deception," argued that because the press, the public and President Lyndon B. Johnson were told that the enemy was running out of men, they were shocked when the communists mounted the Tet offensive in January 1968, sometimes considered a psychological defeat that turned many Americans against the war.

Asked today whether Sharp, who was stationed in Honolulu, was present at the May 19, 1967, briefing in Saigon, Westmoreland said: "I'm confident that he was."

In the general's ninth and last day on the witness stand, his lawyer, Dan M. Burt, asked whether the briefing was "given aloud."

"Was it spoken?" Burt clarified his question, as the general looked somewhat bewildered.

"Oh, yes," Westmoreland replied, smiling. "In English."

Then Burt asked Westmoreland whether Sharp could see charts that outlined the new figures the general's intelligence people apparently presented as part of their case for the new higher numbers, including "self-defense" and "secret self-

defense" forces that worked with homemade bombs, booby traps and punji sticks.

"Did anything obstruct Adm. Sharp's view, that you could see?" Burt asked.

Westmoreland shook his head slightly and said, "That would have been intolerable."

The appearance of the document drew objections from CBS attorney David Boies who told the court that the memo "appears to have been readily available [but] was not among the documents that were listed as exhibits" before the trial.

Burt, arguing successfully for the "memorandum of record" of the meeting to be added to the more than 200,000 documents that are part of this case, said that after subpoenas and a Freedom of Information Act request, the Army "told us they searched their files and didn't produce it."

However, he said that when the May 19 meeting "became a major point" in the case, one of Westmoreland's supporters, retired Army colonel Zane Finkelstein, pressed Army historians for the working document from the session.

Special correspondent John Kennedy contributed to this report.